

REMARKS

Applicants acknowledge receipt of the Examiner's Advisory Action which maintains the final rejection set forth in the Office Action dated May 31, 2006. That Office Action maintains most of the rejections set forth in the Office Action dated December 23, 2005. In light of the foregoing amendments and following remarks, Applicants respectfully request the Examiner's reconsideration and reexamination of all pending claims.

The May 31<sup>st</sup> Office Action rejected claims 2-3, 16-17, and 29 under 35 U.S.C. § 103 as being unpatented over U. S. Patent 6,463,671 issued to Milillo et al. (Milillo) in view of U.S. Patent No. 6,434,681 issued to Armangau ("Armangau"). The Office Action asserts that Milillo does not teach the limitations of claims 2-3, 16-17, and 29. According to the Office Action, however, claims 2-3, 16-17, and 29 are taught in Armangau.

Originally filed claims 2 and 3 recite:

2. The method of claim 1 further comprising modifying data of the first data volume before any or all data of the second data volume is overwritten with data copied from the first data volume.
3. The method of claim 1 further comprising modifying data of the second data volume before any or all data of the second data volume is overwritten with data copied from the first data volume.

Claims 2 and 3 are distinct. Specifically, claim 2 requires modifying data of the first data volume before any or all data of the second volume is overwritten, whereas originally filed claim 3 recites modifying data of the second data volume before any or all data of the second

data volume is overwritten. However, the Office Action rejects originally filed claims 2 and 3 based on the same sections of Armangau. The Office Action cites to column 2, lines 20-30 of Armangau as teaching the limitations of both claim 2 and claim 3. Column 2, lines 20-30 of Armangau teaches a copy-on-write operation in which the storage location of the production dataset is checked to determine whether it has been modified since the time when the snapshot copy was created. At best, column 2, lines 20-30 of Armangau teaches modification of a first data volume (i.e, the production data set). Applicants assert that while column 2, lines 20-30 of Armangau may teach (1) modifying data of the first data volume before any or all data of the second data volume is overwritten, or (2) modifying data of the second data volume before any or all data of the second data volume is overwritten, the quoted sections of Armangau cannot teach both (1) and (2).

Independent claim 1 has been amended to recite the limitations of originally filed claims 2 and 3. The amendments to claim 1 does not require a further search. For the reasons set forth above, Applicants assert that amended claim 1 is patentably distinguishable over the cited sections of Milillo and Armangau. Claims 4-13 depend from independent claim 1. Insofar as independent claim 1 is now patentably distinguishable, it follows that dependent claims 4-13 are likewise patentably distinguishable.

Independent claim 15 has been amended to include the limitations of dependent claims 16 and 17. The amendments to claim 15 does not require a further search. Applicants assert that independent claim 15 is patentably distinguishable over the cited sections of Millilo and Armangau for the same or similar reasons that independent claim 1 is patentably distinguishable.

Claims 18-26 depend from independent claim 15. Insofar as independent claim 15 has shown to be patentably distinguishable, it follows that claims 18-26 are likewise patentably distinguishable.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia, 22313-1450, on September 29, 2006.



Attorney for Applicants

9/29/06  
Date of Signature

Respectfully submitted,



Eric A. Stephenson  
Attorney for Applicants  
Reg. No. 38,321  
Telephone: (512) 439-5093  
Facsimile: (512) 439-5099